

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.601 Definitions.**

Sec. 1. As used in this act:

(a) "Rental unit" means a structure or part of a structure used as a home, residence, or sleeping unit by a single person or household unit, or any grounds, or other facilities or area promised for the use of a residential tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and 2-family dwellings.

(b) "Rental agreement" means an agreement that establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a rental unit.

(c) "Landlord" means the owner, lessor, or sublessor of the rental unit or the property of which it is a part and, in addition, means a person authorized to exercise any aspect of the management of the premises, including a person who, directly or indirectly, acts as a rental agent, receives rent, other than as a bona fide purchaser, and who has no obligation to deliver the receipts to another person.

(d) "Tenant" means a person who occupies a rental unit for residential purposes with the landlord's consent for an agreed upon consideration.

(e) "Security deposit" means a deposit, in any amount, paid by the tenant to the landlord or his or her agent to be held for the term of the rental agreement, or any part of the term, and includes any required prepayment of rent other than the first full rental period of the lease agreement; any sum required to be paid as rent in any rental period in excess of the average rent for the term; and any other amount of money or property returnable to the tenant on condition of return of the rental unit by the tenant in condition as required by the rental agreement. Security deposit does not include either of the following:

(i) An amount paid for an option to purchase, pursuant to a lease with option to purchase, unless it is shown the intent was to evade this act.

(ii) An amount paid as a subscription for or purchase of a membership in a cooperative housing association incorporated under the laws of this state. As used in this subparagraph, "cooperative housing association" means a consumer cooperative that provides dwelling units to its members.

(f) "Senior citizen housing" means housing for individuals 62 years of age or older that is subsidized in whole or in part under any local, state, or federal program.

**History:** 1972, Act 348, Eff. Apr. 1, 1973;—Am. 1984, Act 297, Imd. Eff. Dec. 21, 1984;—Am. 1995, Act 79, Imd. Eff. June 15, 1995.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.601a Termination of lease; conditions; applicability of section to leases entered into, renewed, or renegotiated after effective date.**

Sec. 1a. (1) A rental agreement shall provide that a tenant who has occupied a rental unit for more than 13 months may terminate a lease by a 60-day written notice to the landlord if 1 of the following occurs:

(a) The tenant becomes eligible during the lease term to take possession of a subsidized rental unit in senior citizen housing and provides the landlord with written proof of that eligibility.

(b) The tenant becomes incapable during the lease term of living independently, as certified by a physician in a notarized statement.

(2) This section applies only to leases entered into, renewed, or renegotiated after the effective date of this section, in accordance with the constitutional prohibition against impairment of contracts provided by section 10 of article I of the state constitution of 1963.

**History:** Add. 1995, Act 79, Imd. Eff. June 15, 1995.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.602 Security deposit; amount.**

Sec. 2. A landlord may require a security deposit for each rental unit. A security deposit shall be required and maintained in accordance with the terms of this act and shall not exceed 1 1/2 months' rent.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

## **Act 348 of 1972**

### **554.603 Security deposit; notice.**

Sec. 3. A landlord shall not require a security deposit unless he notifies the tenant no later than 14 days from the date a tenant assumes possession in a written instrument of the landlord's name and address for receipt of communications under this act, the name and address of the financial institution or surety required by section 4 and the tenant's obligation to provide in writing a forwarding mailing address to the landlord within 4 days after termination of occupancy. The notice shall include the following statement in 12 point boldface type which is at least 4 points larger than the body of the notice or lease agreement: "You must notify your landlord in writing within 4 days after you move of a forwarding address where you can be reached and where you will receive mail; otherwise your landlord shall be relieved of sending you an itemized list of damages and the penalties adherent to that failure." Failure to provide the information relieves the tenant of his obligation relative to notification of the landlord of his forwarding mailing address.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

### **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

## **Act 348 of 1972**

### **554.604 Security deposit, disposition; bond.**

Sec. 4. (1) The security deposit shall be deposited in a regulated financial institution. A landlord may use the moneys so deposited for any purposes he desires if he deposits with the secretary of state a cash bond or surety bond written by a surety company licensed to do business in this state and acceptable to the attorney general to secure the entire deposits up to \$50,000.00 and 25% of any amount exceeding \$50,000.00. The attorney general may find a bond unacceptable based only upon reasonable criteria relating to the sufficiency of the bond, and shall notify the landlord in writing of his reasons for the unacceptability of the bond.

(2) The bond shall be for the benefit of persons making security deposits with the landlord. A person for whose benefit the bond is written or his legal representative may bring an action in the district, common pleas or municipal court where the landlord resides or does business for collection on the bond.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

### **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

## **Act 348 of 1972**

### **554.605 Security deposit as property of tenant.**

Sec. 5. For the purposes of this act and any litigation arising thereunder, the security deposit is considered the lawful property of the tenant until the landlord establishes a right to the deposit or portions thereof as long as the bond provision is fulfilled, the landlord may use this fund for any purposes he desires.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

### **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

## **Act 348 of 1972**

### **554.606 Waiving requirements of act.**

Sec. 6. The requirements of this act may not be waived by the parties to a rental agreement except as specifically provided herein.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

### **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

## **Act 348 of 1972**

### **554.607 Security deposit; permissible uses.**

Sec. 7. A security deposit may be used only for the following purposes:

(a) Reimburse the landlord for actual damages to the rental unit or any ancillary facility that are the direct result of conduct not reasonably expected in the normal course of habitation of a dwelling.

(b) Pay the landlord for all rent in arrearage under the rental agreement, rent due for premature termination of the rental agreement by the tenant and for utility bills not paid by the tenant.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

## **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

**Act 348 of 1972**

### **554.608 Inventory checklists.**

Sec. 8. (1) The landlord shall make use of inventory checklists both at the commencement and termination of occupancy for each rental unit which detail the condition of the rental unit for which a security deposit is required.

(2) At the commencement of the lease, the landlord shall furnish the tenant 2 blank copies of a commencement inventory checklist, which form shall be identical to the form used for the termination inventory checklist. The checklist shall include all items in the rental unit owned by the landlord including, but not limited to, carpeting, draperies, appliances, windows, furniture, walls, closets, shelves, paint, doors, plumbing fixtures and electrical fixtures.

(3) Unless the landlord and tenant agree to complete their inventory checklist within a shorter period, the tenant shall review the checklist, note the condition of the property and return 1 copy of the checklist to the landlord within 7 days after receiving possession of the premises.

(4) The checklist shall contain the following notice in 12 point boldface type at the top of the first page: "You should complete this checklist, noting the condition of the rental property, and return it to the landlord within 7 days after obtaining possession of the rental unit. You are also entitled to request and receive a copy of the last termination inventory checklist which shows what claims were chargeable to the last prior tenants."

(5) At the termination of the occupancy, the landlord shall complete a termination inventory checklist listing all the damages he claims were caused by the tenant.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

## **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

**Act 348 of 1972**

### **554.609 Itemized list of damages; check or money order; contents of notice of damages.**

Sec. 9. In case of damage to the rental unit or other obligation against the security deposit, the landlord shall mail to the tenant, within 30 days after the termination of occupancy, an itemized list of damages claimed for which the security deposit may be used as provided in section 7, including the estimated cost of repair of each property damaged item and the amounts and bases on which he intends to assess the tenant. The list shall be accompanied by a check or money order for the difference between the damages claimed and the amount of the security deposit held by the landlord and shall not include any damages that were claimed on a previous termination inventory checklist prior to the tenant's occupancy of the rental unit. The notice of damages shall include the following statement in 12 point boldface type which shall be at least 4 points larger than the body of the notice: "You must respond to this notice by mail within 7 days after receipt of same, otherwise you will forfeit the amount claimed for damages."

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

## **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

**Act 348 of 1972**

### **554.610 Effect of noncompliance with notice of damages requirement.**

Sec. 10. Failure by the landlord to comply with the notice of damages requirement within the 30 days after the termination of occupancy, constitutes agreement by the landlord that no damages are due and he shall remit to the tenant immediately the full security deposit.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

## **LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**

**Act 348 of 1972**

### **554.611 Notice of forwarding address; effect of noncompliance.**

Sec. 11. The tenant shall notify the landlord in writing at the address given under section 4 within 4 days after termination of his occupancy of an address at which communications pursuant to this act may be received. Failure to comply with this requirement relieves the landlord of the requirement of notice of damages but does not prejudice a tenant's subsequent claim for the security deposit.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.612 Response to notice of damages.**

Sec. 12. If a landlord claims damages to a rental unit and gives notice of damages as required, the tenant upon receipt of the list of damages shall respond by ordinary mail to the address provided by the landlord as required by section 3 within 7 days, indicating in detail his agreement or disagreement to the damage charges listed. For the purposes of this section the date of mailing shall be considered the date of the tenant's response.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.613 Action for damages; retention of security deposit; waiver.**

Sec. 13. (1) Within 45 days after termination of the occupancy and not thereafter the landlord may commence an action in a court of competent jurisdiction for a money judgment for damages which he has claimed or in lieu thereof return the balance of the security deposit held by him to the tenant or any amount mutually agreed upon in writing by the parties. A landlord shall not be entitled to retain any portion of a security deposit for damages claimed unless he has first obtained a money judgment for the disputed amount or filed with the court satisfactory proof of an inability to obtain service on the tenant or unless:

(a) The tenant has failed to provide a forwarding address as required by section 11.

(b) The tenant has failed to respond to the notice of damages as required by section 12.

(c) The parties have agreed in writing to the disposition of the balance of the deposit claimed by the landlord.

(d) The amount claimed is entirely based upon accrued and unpaid rent equal to the actual rent for any full rental period or portion thereof during which the tenant has had actual or constructive possession of the premises.

(2) This section does not prejudice a landlord's right to retain any security deposit funds as satisfaction or partial satisfaction of a money judgment obtained pursuant to summary proceedings filed pursuant to chapter 57 of Act No. 236 of the Public Acts of 1961, as amended, being sections 600.5701 to 600.5759 of the Compiled Laws of 1948 or other proceedings at law. Failure of the landlord to comply fully with this section constitutes waiver of all claimed damages and makes him liable to the tenant for double the amount of the security deposit retained.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.614 Termination of landlord's interest; liability for security deposit.**

Sec. 14. Upon termination of a landlord's interest in a rental unit whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent is liable with respect to the security deposit, until the occurrence of any of the following:

(a) Transfer of the deposit to the landlord's successor in interest and written notification to the tenant by ordinary mail of the transfer and of the successor's name and address.

(b) Compliance with section 4 by the successor in interest.

(c) Return of the security deposit to the tenant.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.615 Action to enforce act.**

Sec. 15. The attorney general or any affected individual may bring an action to enforce this act in a court of competent jurisdiction in the county where the defendant resides or does business.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**LANDLORD AND TENANT RELATIONSHIPS (EXCERPT)**  
**Act 348 of 1972**

**554.616 Effective date and applicability of act.**

Sec. 16. This act takes effect April 1, 1973 and applies only to security deposits held pursuant to leases entered into, renewed or renegotiated after April 1, 1973.

**History:** 1972, Act 348, Eff. Apr. 1, 1973.

**Popular name:** Landlord-Tenant Act

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5701 Definitions.**

Sec. 5701. As used in this chapter:

(a) "Summary proceedings" means a civil action to recover possession of premises and to obtain certain ancillary relief as provided by this chapter and by court rules adopted in connection therewith.

(b) "Premises" includes lands, tenements, condominium property, cooperative apartments, air rights and all manner of real property. It includes structures fixed or mobile, temporary or permanent, vessels, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage.

(c) "Lease" includes a written or verbal lease or license agreement for use or possession of premises.

(d) "District" means the judicial districts provided for in chapter 81.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5704 Jurisdiction.**

Sec. 5704. The district court, municipal courts and the common pleas court of Detroit have jurisdiction over summary proceedings to recover possession of premises under this chapter.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5706 Venue.**

Sec. 5706. (1) This section governs venue in all courts having jurisdiction over summary proceedings and is not jurisdictional.

(2) In districts where the district court is operative, the following are the proper places in which to commence and try summary proceedings:

(a) The county in which the premises or any part of the premises are situated, in districts of the first class.

(b) The district in which the premises or any part of the premises are situated, in districts of the second or third class.

(3) In districts where the district court is not operative, the municipal court of the city in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings. A municipal court having jurisdiction pursuant to section 9928 over a township in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings.

(4) Summary proceedings brought in a county, district, or court not designated as a proper county, district, or court may be tried in that county, district, or court, unless a defendant moves for a change of venue or the court upon its own motion orders a change of venue. The defendant's motion or the court's order shall be made within the time and in the manner provided by court rule and the court shall transfer such a proceeding to a proper county, district, or court on the condition that the plaintiff pay to the court to which the action is transferred an additional filing fee and on such other conditions relative to expense and costs as may be provided by court rule.

(5) On such grounds and conditions as may be provided by court rule, the venue of summary proceedings commenced in a proper county, district, or court may be changed to any other county, district, or court and the proceeding tried in that county, district, or court. The court to which any transfer is made pursuant to this subsection or subsection (4) has full jurisdiction of the proceeding as though the proceeding were originally

commenced in that court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

**Compiler's note:** Sections 2 and 4 of Act 438 of 1980 provide:

**“Conditional effective date; action constituting exercise of option; effect of exercising option.**

“Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978.”

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

**“Effective date of certain sections.**

“Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981.”

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)** **Act 236 of 1961**

#### **600.5708 Rules.**

Sec. 5708. Except as otherwise provided in this chapter, the procedure in summary proceedings shall be regulated by rules adopted by the supreme court and by local court rules not inconsistent therewith.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)** **Act 236 of 1961**

#### **600.5711 Entry.**

Sec. 5711. A person may not make any entry into or upon premises unless the entry is permitted by law. If entry is permitted by law, he shall not enter with force but only in a peaceable manner.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)** **Act 236 of 1961**

#### **600.5714 Summary proceedings to recover possession of premises; holding over by tenant or occupant of public housing or by tenant of mobile home park.**

Sec. 5714. (1) A person entitled to premises may recover possession of the premises by summary proceedings in the following circumstances:

(a) When a person holds over premises after failing or refusing to pay rent due under the lease or agreement by which the person holds the premises within 7 days from the service of a written demand for possession for nonpayment of the rent due. For the purpose of this subdivision, rent due does not include any accelerated indebtedness by reason of a breach of the lease under which the premises are held.

(b) When a person holds over premises for 24 hours following service of a written demand for possession for termination of the lease pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or other person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. This subdivision applies only if a formal police report has been filed by the landlord alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subdivision, “controlled substance” means a substance or a counterfeit substance classified in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

(c) When a person holds over premises in 1 or more of the following circumstances:

(i) After termination of the lease, pursuant to a power to terminate provided in the lease or implied by law.



(ii) After the term for which the premises are demised to the person or to the person under whom he or she holds.

(iii) After the termination of the person's estate by a notice to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

(d) When the person in possession willfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered by the party seeking possession not earlier than 90 days before the institution of proceedings under this chapter and when the person in possession neglects or refuses for 7 days after service of a demand for possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(e) When a person takes possession of premises by means of a forcible entry, holds possession of premises by force after a peaceable entry, or comes into possession of premises by trespass without color of title or other possessory interest.

(f) When a person continues in possession of premises sold by virtue of a mortgage or execution, after the time limited by law for redemption of the premises.

(g) When a person continues in possession of premises sold and conveyed by a personal representative under license from the probate court or under authority in the will.

(2) A tenant or occupant of housing operated by a city, village, township, or other unit of local government, as provided in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission or by law.

(3) A tenant of a mobile home park is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or lease agreement is terminated for just cause pursuant to chapter 57a.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1988, Act 336, Eff. May 1, 1989;—Am. 1990, Act 310, Imd. Eff. Dec. 14, 1990;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5716 Demand for possession or payment; form and contents.**

Sec. 5716. A demand for possession or payment shall be in writing, addressed to the person in possession and shall give the address or other brief description of the premises. The reasons for the demand and the time to take remedial action shall be clearly stated. When nonpayment of rent or other sums due under the lease is claimed, the amount due at the time of the demand shall be stated. The demand shall be dated and signed by the person entitled to possession, his attorney or agent.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5718 Demand for possession or payment; service.**

Sec. 5718. The demand provided for in section 5716 may be served by delivering it personally to the person in possession, or by delivering it on the premises to a member of his family or household or an employee, of suitable age and discretion, with a request that it be delivered to the person in possession, or by sending it by first-class mail addressed to the person in possession. If the demand is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5720 Judgment for possession of premises for alleged termination of tenancy; grounds for not entering; retaliatory termination of tenancy; presumptions; burden.**

Sec. 5720. (1) A judgment for possession of the premises for an alleged termination of tenancy shall not be entered against a defendant if 1 or more of the following is established:

(a) That the alleged termination was intended primarily as a penalty for the defendant's attempt to secure or enforce rights under the lease or agreement or under the laws of the state, of a governmental subdivision of this state, or of the United States.

(b) That the alleged termination was intended primarily as a penalty for the defendant's complaint to a governmental authority with a report of plaintiff's violation of a health or safety code or ordinance.

(c) That the alleged termination was intended primarily as retribution for a lawful act arising out of the tenancy, including membership in a tenant organization and a lawful activity of a tenant organization arising out of the tenancy.

(d) That the alleged termination was of a tenancy in housing operated by a city, village, township, or other unit of local government and was terminated without cause.

(e) That the plaintiff attempted to increase the defendant's obligations under the lease or contract as a penalty for the lawful acts as are described in subdivisions (a) to (c) and that the defendant's failure to perform the additional obligations was the primary reason for the alleged termination of tenancy.

(f) That the plaintiff committed a breach of the lease which excuses the payment of rent if possession is claimed for nonpayment of rent.

(g) That the rent allegedly due, in an action where possession is claimed for nonpayment of rent, was paid into an escrow account under section 130 of Act No. 167 of the Public Acts of 1917, being section 125.530 of the Michigan Compiled Laws; was paid pursuant to a court order under section 134(5) of Act No. 167 of the Public Acts of 1917, as amended, being section 125.534 of the Michigan Compiled Laws; or was paid to a receiver under section 135 of Act No. 167 of the Public Acts of 1917, being section 125.535 of the Michigan Compiled Laws.

(2) If a defendant who alleges a retaliatory termination of the tenancy shows that within 90 days before the commencement of summary proceedings the defendant attempted to secure or enforce rights against the plaintiff or to complain against the plaintiff, as provided in subsection (1)(a), (b), (c), or (e), by means of official action to or through a court or other governmental agency and the official action has not resulted in dismissal or denial of the attempt or complaint, a presumption in favor of the defense of retaliatory termination arises, unless the plaintiff establishes by a preponderance of the evidence that the termination of tenancy was not in retaliation for the acts. If the defendant's alleged attempt to secure or enforce rights or to complain against the plaintiff occurred more than 90 days before the commencement of proceedings or was terminated adversely to the defendant, a presumption adverse to the defense of retaliatory termination arises and the defendant has the burden to establish the defense by a preponderance of the evidence.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 75, Imd. Eff. Apr. 3, 1980.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.5726 Recovery of possession following forfeiture of executory contract for purchase of premises; accelerated indebtedness.**

Sec. 5726. A person entitled to any premises may recover possession thereof by a proceeding under this chapter after forfeiture of an executory contract for the purchase of the premises but only if the terms of the contract expressly provide for termination or forfeiture, or give the vendor the right to declare a forfeiture, in consequence of the nonpayment of any moneys required to be paid under the contract or any other material breach of the contract. For purposes of this chapter, moneys required to be paid under the contract shall not include any accelerated indebtedness by reason of breach of the contract.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.5728 Prerequisites to recovery of possession under § 600.5726; contents of notice of forfeiture.**

Sec. 5728. (1) Possession may be recovered under section 5726 only after the vendee or person holding possession under him has been served with a written notice of forfeiture and has failed in the required time to pay moneys required to be paid under the contract or to cure any other material breach of the contract. Unless the parties have agreed in writing to a longer time, the person served with a notice of forfeiture shall have 15 days thereafter before he is required to pay moneys required to be paid under the contract and cure other material breaches of the contract or to deliver possession of the premises.

(2) The notice of forfeiture shall state the names of the parties to the contract and the date of its execution, give the address or legal description of the premises, specify the unpaid amount of moneys required to be paid under the contract and the dates on which payments thereof were due, specify any other material breaches of the contract and shall declare forfeiture of the contract effective in 15 days, or specified longer time, after service of the notice, unless the money required to be paid under the contract is paid and any other material breaches of the contract are cured within that time. The notice shall be dated and signed by the person entitled to possession, his attorney or agent.



**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5730 Service of notice of forfeiture.**

Sec. 5730. The notice of forfeiture provided for in section 5728 may be served by delivering it personally to the vendee or person holding possession under him or by delivering it on the premises to a member of his family or household or an employee, of suitable age and discretion, with a request that it be delivered to the vendee or person holding possession under him, or by sending it by first-class mail addressed to the last known address of the vendee or the person holding under him. If the notice is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed. If notice cannot be served by 1 of these methods, it may be served by publication under the provisions of Act No. 235 of the Public Acts of 1929, being sections 554.301 and 554.302 of the Compiled Laws of 1948 and the date of the third publication is the date of service.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5732 Powers of court having jurisdiction over summary proceedings.**

Sec. 5732. Pursuant to applicable court rules, a court having jurisdiction over summary proceedings may provide for pleadings and motions, issue process and subpoenas, compel the attendance and testimony of witnesses, enter and set aside defaults and default judgments, allow amendments to pleadings, process, motions and orders, order adjournments and continuances, make and enforce all other writs and orders and do all other things necessary to hear and determine summary proceedings.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5735 Summons; hearing.**

Sec. 5735. (1) The court in which a summary proceeding is commenced shall issue a summons, which may be served on the defendant by any officer or person authorized to serve process of the court. The summons shall command the defendant to appear for trial in accordance with the provisions of subsection (2) unless by local court rule the provisions of subsection (4) have been made applicable.

(2) A summons issued under this section shall command the defendant to appear for trial as follows:

(a) Within 30 days of the issuance date of the summons in proceedings under section 5726, in which event the summons shall be served not less than 10 days before the date set for trial.

(b) Within 10 days of the issuance date of the summons in all other proceedings, in which event the summons shall be served not less than 3 days before the date set for trial.

(3) If a summons issued under this section is not served within the time provided by subsection (2), additional summons shall be issued at the plaintiff's request in the same manner and with the same effect as the original summons.

(4) Instead of the provisions of subsection (2), a court by local rule may provide for the application of this subsection to summary proceedings commenced in the court, in which event the summons shall command the defendant to appear as follows:

(a) Within 10 days after service of the summons upon the defendant in proceedings under section 5726.

(b) Within 5 days after service of the summons upon the defendant in all other proceedings.

(5) A summons issued under subsection (4) remains in effect until served or quashed or until the action is dismissed, but additional summons as needed for service may be issued at any time at the plaintiff's request.

(6) Except as otherwise provided by court rule, a summary proceeding shall be heard within 7 days after the defendant's appearance or trial date and shall not be adjourned beyond that time other than by stipulation of the parties either in writing or on the record.

(7) An action to which section 5714(1)(b) applies shall be heard at the time of the defendant's appearance or trial date and shall not be adjourned beyond that time except for extraordinary reasons.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2001, Act 162, Imd. Eff. Nov. 7, 2001;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5738 Jury trial.**

Sec. 5738. Any party to summary proceedings may demand a trial by jury within the time and manner provided by court rule. Procedures for selecting, impaneling and otherwise governing jurors in such proceedings shall be the same as for a trial by jury in other civil actions in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5739 Joinder of claims and counterclaims for money judgment; separate disposition of claim for possession; damages for labor expended by either landlord or tenant.**

Sec. 5739. (1) Except as provided by court rules, a party to summary proceedings may join claims and counterclaims for money judgment for damages attributable to wrongful entry, detainer, or possession, for breach of the lease or contract under which the premises were held, or for waste or malicious destruction to the premises. The court may order separate summary disposition of the claim for possession, without prejudice to any other claims or counterclaims. A claim or counterclaim for money judgment shall not exceed the amount in controversy that otherwise limits the jurisdiction of the court.

(2) If the court awards damages for physical injury to the premises under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by a landlord or property manager in repairing the premises in the same manner as it would if the repairs were performed by a third party. A landlord's or property manager's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

(3) If the court determines that the landlord breached the lease or contract under which the premises were held by failing to repair the premises and awards damages under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by the tenant in repairing the premises in the same manner as it would if the repairs were performed by a third party. A tenant's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2006, Act 147, Eff. July 1, 2006.

**Compiler's note:** Enacting section 1 of Act 147 of 2006 provides:

"Enacting section 1. This amendatory act applies to an action filed after the effective date of this amendatory act."

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5741 Entry and enforcement of judgment for possession; determination of amount due; award of costs.**

Sec. 5741. If the jury or the judge finds that the plaintiff is entitled to possession of the premises, or any part thereof, judgment may be entered in accordance with the finding and may be enforced by a writ of restitution as provided in this chapter. If it is found that the plaintiff is entitled to possession of the premises, in consequence of the nonpayment of any money due under a tenancy, or the nonpayment of moneys required to be paid under an executory contract for purchase of the premises, the jury or judge making the finding shall determine the amount due or in arrears at the time of trial which amount shall be stated in the judgment for possession. In determining the amount due under a tenancy the jury or judge shall deduct any portion of the rent which the jury or judge finds to be excused by the plaintiff's breach of the lease or by his breach of 1 or more statutory covenants imposed by section 39 of chapter 66 of the Revised Statutes of 1846, as added, being section 554.139 of the Compiled Laws of 1948. The statement in the judgment for possession shall be only for the purpose of prescribing the amount which, together with taxed costs, shall be paid to preclude issuance of the writ of restitution. The judgment may include an award of costs, enforceable in the same manner as other civil judgments for money in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5744 Issuance of writ of restitution; conditions; foreclosure of equitable right of redemption.**

Sec. 5744. (1) Subject to the time restrictions of this section, the court entering a judgment for possession in a summary proceeding shall issue a writ commanding the sheriff, or any other officer authorized to serve the process, to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

(2) On conditions determined by the court, a writ of restitution may be issued immediately after the entry of a judgment for possession when any of the following is pleaded and proved, with notice, to the satisfaction of the court:

(a) The premises are subject to inspection and certificate of compliance under the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, and the certificate or temporary certificate has not been issued and the premises have been ordered vacated.

(b) Forcible entry was made contrary to law.

(c) Entry was made peaceably but possession is unlawfully held by force.

(d) The defendant came into possession by trespass without color of title or other possessory interest.

(e) The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continuing injury to the premises and is neglecting or refusing either to deliver up possession after demand or to substantially restore or repair the premises.

(f) The action is an action to which section 5714(1)(b) applies.

(3) When a judgment for possession is based upon the forfeiture of an executory contract for the purchase of the premises, a writ of restitution shall not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months after the entry of judgment for possession if 50% or more of the purchase price has been paid.

(4) In all cases not controlled by subsection (2) or (3), a writ of restitution shall not be issued until the expiration of 10 days after the entry of the judgment for possession.

(5) If an appeal is taken or a motion for new trial is filed before the expiration of the period during which a writ of restitution shall not be issued and if a bond to stay proceedings is filed, the period during which the writ shall not be issued shall be tolled until the disposition of the appeal or motion for new trial is final.

(6) When a judgment for possession is for nonpayment of money due under a tenancy or for nonpayment of money required to be paid under or any other material breach of an executory contract for purchase of the premises, the writ of restitution shall not issue if, within the time provided, the amount stated in the judgment, together with the taxed costs, is paid to the plaintiff and other material breaches of the executory contract for purchase of the premises are cured.

(7) Issuance of a writ of restitution following entry of a judgment for possession because of the forfeiture of an executory contract for the purchase of the premises forecloses any equitable right of redemption that the purchaser has or could claim in the premises.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 105, Eff. Sept. 1, 2004.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.5747 Judgment for defendant for costs.**

Sec. 5747. If the plaintiff fails to prosecute his complaint, or if upon trial or motion the plaintiff is found not entitled to possession of the premises, judgment shall be rendered for the defendant for his costs, which shall be taxed and collected in the same manner as other civil judgments for money in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.5750 Summary proceedings not exclusive of other remedies; merging or barring of claims; damages.**

Sec. 5750. The remedy provided by summary proceedings is in addition to, and not exclusive of, other remedies, either legal, equitable or statutory. A judgment for possession under this chapter does not merge or bar any other claim for relief, except that a judgment for possession after forfeiture of an executory contract for the purchase of premises shall merge and bar any claim for money payments due or in arrears under the contract at the time of trial and that a judgment for possession after forfeiture of such an executory contract which results in the issuance of a writ of restitution shall also bar any claim for money payments which would have become due under the contract subsequent to the time of issuance of the writ. The plaintiff obtaining a judgment for possession of any premises under this chapter is entitled to a civil action against the defendant for damages from the time of forcible entry or detainer, or trespass, or of the notice of forfeiture, notice to quit or demand for possession, as the case may be.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

**600.5753 Appeal.**

Sec. 5753. Any party aggrieved by the determination or judgment of the court under this chapter may appeal to the circuit court of the same county. The appeal shall be made in the same manner as an appeal in other civil actions from the same court, with bond and procedure as provided by court rules.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5756 Filing fees; disposition.**

Sec. 5756. (1) If the complaint is for the recovery of possession of premises only, the fee for filing a proceeding under this chapter is \$45.00.

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

(3) Of each filing fee collected under this section, at the end of each month, the clerk of the district court shall transmit \$17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the \$5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all \$17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(4) At the end of each month, the clerk of the district court shall transmit each supplemental filing fee collected under this section in the same manner as a fee under section 8371 for the filing of a claim for money judgment for the same amount is transmitted.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5757 Fee for certain writs and for judgment debtor discovery subpoena.**

Sec. 5757. A fee of \$15.00 shall be charged for each writ of restitution, garnishment, attachment, or execution and for each judgment debtor discovery subpoena issued.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.5759 Costs.**

Sec. 5759. (1) In proceedings under this chapter, costs may be allowed in the same amounts as are provided by law in other civil actions in the same court, except that the costs provided by section 2441 shall not apply. The court may also allow as taxable costs an amount not exceeding the following:

- (a) For a motion that results in dismissal or judgment, \$75.00.
- (b) For a judgment taken by default or consent, \$75.00.
- (c) For the trial of a claim for possession only, \$150.00.
- (d) For the trial of a claim for a money judgment only, \$150.00.
- (e) For a trial including both a claim for possession and a claim for a money judgment, \$150.00.

(2) In determining taxable costs in tenancy cases, the judge shall take into consideration whether the jury or judge found that a portion of the rent allegedly due to the plaintiff was excused by reason of the plaintiff's breach of the lease or breach of his or her statutory covenants.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 31, Eff. July 1, 2004.